

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**DAVIES ENTERPRISES, LLC,
CRUISING KITCHENS, LLC, CAM-
ERON DAVIES, MARY K. DAVIES,**

Plaintiffs,

Case No. SA-23-CV-01527-JKP

v.

**BLUE SKY BANK, MARK C. TAY-
LOR,**

Defendants.

ORDER

Before the Court is the procedural status of this matter.

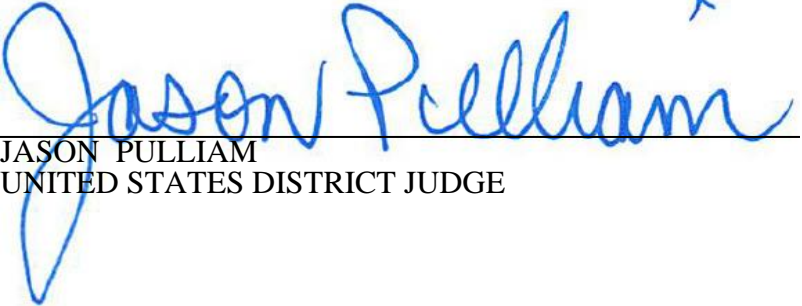
On January 8, 2024, Plaintiffs filed an opposed Motion for Leave to Amend the Complaint, adding a non-diverse Defendant, Erik White. *ECF Nos. 7,10*. On the same date, and before a Court ruling on the Motion for Leave to Amend the Complaint, the Amended Complaint was inadvertently entered into the record. *ECF No. 8*. Consequently, Plaintiffs filed a Motion to Remand based upon the addition of a non-diverse Defendant, and Defendants filed a Motion to Dismiss the Amended Complaint for Failure to State a Claim pursuant to Federal Rule 12(b)(6). *ECF Nos. 9,11*. However, these subsequent motions are ineffectual because the Court has not yet ruled on the opposed Motion for Leave to Amend the Complaint.

For this reason, and for the sake of judicial economy to prevent the parties' confusion regarding any impending deadlines for response, the Court STRIKES the Amended Complaint subject to refile upon Magistrate Judge Bemporad's ruling on the Motion for Leave to Amend

the Complaint. *See ECF No. 8.* The Court dismisses Defendants' Motion to Remand and Motion to Dismiss the Amended Complaint for Failure to State a Claim pursuant to Federal Rule 12(b)(6) subject to refileing upon Magistrate Judge Bemporad's ruling on the Motion for Leave to Amend the Complaint. *See ECF Nos. 9,11.*

It is so ORDERED.

SIGNED this 23rd day of January, 2024.



JASON PULLIAM
UNITED STATES DISTRICT JUDGE